

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY MADRID PRIORITY

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E.O. 11652: N/A

TAGS: PFOR

SUBJECT: SPANISH REQUEST FOR EXEMPTION FROM PROPERTY TAX
FOR OAS AMBASSADOR

REFERENCE: MADRID 7812

1. REFTEL REPORTED GOS PROTEST OF TAXATION BY DISTRICT OF COLUMBIA OF REAL PROPERTY PURCHASED IN MARCH 1973 FOR USE AS RESIDENCE OF SPANISH PERMANENT OBSERVER TO THE OAS WHO HAS AMBASSADORIAL STATUS. GOS REGARDS TAX AS IMPROPER, CITING ARTICLE 34 OF VIENNA DIPLOMATIC RELATIONS CONVENTION RELATING TO EXEMPTIONS ACCORDED DIPLOMATIC AGENTS FROM PAYMENT OF TAXES.

2. IN DEPARTMENT'S VIEW PRINCIPAL RESIDENCE OF OAS PERMANENT OBSERVER SHOULD BE EXEMPT FROM REAL PROPERTY TAXATION IN VIEW OF STATUS ACCORDED SUCH OFFICER BY THE INTERNATIONAL ORGANIZATION AND RECOGNITION BY THE UNITED STATES THROUGH UNCLASSIFIED

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LEGISLATION OF ENTITLEMENT OF SUCH PERSON TO THE SAME PRIVI-

LEGES AND IMMUNITIES ACCORDED DIPLOMATIC ENVOYS ACCREDITED TO THE UNITED STATES (PUBLIC LAW 93-149, NOVEMBER 7, 1973 SAME PRIVILEGES AND IMMUNITIES SHOULD BE ACCORDED TO PERMANENT OBSERVERS AS THOSE ACCORDED TO HEADS OF MISSIONS OF MEMBER STATES TO THE OAS. THE LATTER ARE ACCORDED REAL ESTATE TAX EXEMPTIONS FOR THEIR PRINCIPAL RESIDENCES.

2. FYI: DEPARTMENT DOES NOT ACCEPT ARGUMENT AT MR. DE PUGA'S STATUS AS MINISTER OF THE EMBASSY ENTITLED HIM PER SE TO THE TAX EXEMPTION IN QUESTION. DEPARTMENT READS VIENNA CONVENTION AS LIMITING REAL ESTATE TAX EXEMPTIONS FOR PRIVATE RESIDENCES TO THAT OF THE CHIEF OF THE MISSION WHOSE RESIDENCE IS INCLUDED WITHIN THE DEFINITION OF "PREMISES OF THE MISSION." (SEE IN THIS REGARD ARTICLE 23 OF THE TREATY. END FYI.

3. UNDER PL 93-L49, PRESIDENT IS AUTHORIZED TO EXTEND TO OR ENTER INTO AN AGREEMENT EXTENDING TO REPRESENTATIVES OF MEMBER STATES TO THE OAS AND TO PERMANENT OBSERVERS TO THE OAS PRIVILEGES AND IMMUNITIES. IT HAS BEEN AGREED THAT THE UNITED STATES AND THE OAS WILL NEGOTIATE A NEW AGREEMENT WHICH WILL CONTAIN PROVISIONS ON PRIVILEGES AND IMMUNITIES FOR BOTH CATEGORIES OF REPRESENTATIVES. PENDING THE ENTRY INTO FORCE OF THAT BILATERAL AGREEMENT, HOWEVER, THERE REMAINS A GAP ON THE P&I FRONT FOR PERMANENT OBSERVERS. THIS PROBLEM HAS NOT BEEN A PRACTICAL ONE TO DATE FOR SPANISH OBSERVER MISSION IN VIEW OF DUAL ACCREDITATION. PROBLEM RAISED REFTEL, HOWEVER, BRINGS ISSUE TO A (EAD.

4. DEPARTMENT CONSIDERS MOST PRACTICAL INTERIM SOLUTION TO BE ISSUANCE OF AN EXECUTIVE ORDER EXTENDING P&I AUTHORIZED UNDER NEW LEGISLATION TO OAS REPS PENDING ENTRY INTO FORCE OF NEW AGREEMENT. THIS EXECUTIVE ORDER WOULD MODEL THAT ISSUED EARLIER THIS YEAR FOR BENEFIT OF THE PEOPLE'S REPUBLIC OF CHINA LIAISON OFFICE WHICH SIMILARLY RECEIVES PRIVILEGES AND IMMUNITIES AS RESULT OF DOMESTIC LEGISLATION. PROPOSED TEXT OF EXECUTIVE ORDER FOLLOWS: "BY VIRTUE OF THE AUTHORITY VESTED IN ME BY THE ACT OF NOVEMBER 7, 1973 (87 STAT. 560; PUBLIC LAW UNCLASSIFIED

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93-L49, AND AS PRESIDENT OF THE UNITED STATES, I EXTEND TO REPRESENTATIVES OF MEMBER STATES (OTHER THAN THE UNITED STATES) TO THE ORGANIZATION OF AMERICAN STATES AND TO PERMANENT OBSERVERS TO THE ORGANIZATION OF AMERICAN STATES, AND TO MEMBERS OF THE DIPLOMATIC STAFFS OF SAID REPRESENTATIVES AND PERMANENT OBSERVERS, THE SAME PRIVILEGES AND IMMUNITIES, SUBJECT TO CORRESPONDING CONDITIONS AND OBLIGATIONS, AS ARE ENJOYED BY DIPLOMATIC ENVOYS

ACCREDITED TO THE UNITED STATES. THIS EXECUTIVE ORDER SHALL BE EFFECTIVE AS OF NOVEMBER 7, 1973, AND SHALL REMAIN IN EFFECT UNTIL THE ENTRY INTO FORCE OF A NEW AGREEMENT BETWEEN THE UNITED STATES AND THE ORGANIZATION OF A MERICAN STATES."

5. AFTER CONFERRING WITH OAS PROPOSED EXECUTIVE ORDER CAN HOPEFULLY BE SECURED WITHIN SHORT PERIOD OF TIME. WITH RETROACTIVE EFFECT, IT WOULD CONSTITUTE BASIS FOR DEPARTMENT INSTRUCTING D. C. TAXING AUTHORITIES THAT DE PUGA RESIDENCE SHOULD BE EXEMPTED FROM TAXES AS OF NOVEMBER 7, 1973. ANY COMMENTS WHICH EMBASSY HAS WOULD BE WELCOMED. KISSINGER

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